

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

FELICIA MORGAN,

Plaintiff,

v.

MONSANTO COMPANY,

Defendant.

No. _____

DEFENDANT MONSANTO COMPANY’S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 (and any other applicable laws), Defendant Monsanto Company (“Monsanto”), hereby gives notice of removal of this action, captioned *Felicia Morgan. v. Monsanto Company*, bearing Case Number 23-A-02567-7, from the Superior Court of Gwinnett County, Georgia to the United States District Court for the Northern District of Georgia. Pursuant to 28 U.S.C. § 1446(a), Monsanto provides the following statement of grounds for removal.

Introduction

1. In this products liability lawsuit, Plaintiff Felicia Morgan (“Plaintiff”), sues Monsanto for injuries allegedly caused by Roundup®-branded herbicides,

which have glyphosate as their active ingredient. For decades, farmers have used glyphosate-based herbicides to increase crop yields, and homeowners, landscaping companies, and local government agencies have used these herbicides for highly effective weed control. Glyphosate is one of the most thoroughly studied herbicides in the world, and glyphosate-based herbicides have received regulatory approval in more than 160 countries. Since 1974, when a Roundup[®]-branded herbicide was first introduced to the marketplace, the United States Environmental Protection Agency repeatedly has concluded that glyphosate does not cause cancer. Nevertheless, Plaintiff alleges that exposure to Roundup[®]-branded, glyphosate-based herbicides caused her illness.

2. As discussed in more detail below, Monsanto removes this lawsuit because this Court has subject matter jurisdiction based on diversity of citizenship. Plaintiff Felicia Morgan is a citizen of Georgia. For purposes of diversity jurisdiction, Monsanto is deemed to be a citizen of Missouri and Delaware. Accordingly, complete diversity of citizenship exists in this case as required by 28 U.S.C. § 1332. The statutory amount-in-controversy requirement is also satisfied because Plaintiff seeks damages in excess of \$1,000,000.00.

Background and Procedural History

3. On or about March 28, 2023, Plaintiff commenced this lawsuit in the Superior Court of Gwinnett County, Georgia by filing a complaint, captioned *Felicia Morgan v. Bayer US LLC.*, bearing case number 23-A-02567-7 (the “State Court Action”).

4. Plaintiff subsequently filed a “Motion to Substitute Party Defendant,” requesting that Monsanto be named the defendant in place of Bayer US LLC. That motion was granted and, in accordance with the order granting the motion, Plaintiff filed a new complaint (the “Operative Complaint”) on June 13, 2023, naming Monsanto as the only defendant. Monsanto has not yet received service of process.

5. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of the Operative Complaint and all other pleadings filed in the State Court Action are attached as Exhibit 1. This lawsuit seeks damages in excess on \$1,000,000.00 allegedly caused by exposure to glyphosate-based herbicides. *See, e.g.*, Operative Complaint ¶¶ 1-4, pp. 15-16 of Ex. 1.

Basis For Removal — Diversity Jurisdiction

6. Plaintiff Felicia Morgan is, and was at the time the State Court Action was filed, a resident and citizen of the State of Georgia. *See* Complaint ¶ 1; *see also* Exhibit 2, Accurint Report Excerpt for Plaintiff.

7. Monsanto is, and was at the time the State Court Action was filed, a corporation incorporated under the laws of the State of Delaware, with its principal place of business in the State of Missouri.¹

8. The Complaint seeks compensatory and punitive damages in excess of \$1,000,000.00 based on the allegations that Roundup®-branded herbicides caused Plaintiff to develop an undisclosed illness. *See* Operative Complaint ¶ 4, pp. 15-16 of Ex. 1. Thus, Plaintiff seeks damages in excess of \$75,000, exclusive of interest and costs, which satisfies the jurisdictional amount-in-controversy requirement. 28 U.S.C. § 1332(a); *see Dart Cherokee Basin Operating Co. v. Owens*, 574 U.S. 81, 89 (2014) (“[A] defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.”).

9. In sum, this Court has original subject matter jurisdiction over this action based on § 1332(a) because there is complete diversity of citizenship, and the amount in controversy exceeds \$75,000, exclusive of costs and interest.

¹ The Complaint incorrectly describes Monsanto as a “Missouri corporation.” *See* Complaint ¶ 2.

Procedural Requirements

10. The Superior Court of Gwinnett County, Georgia is located within the Northern District of Georgia. Therefore, removal to this Court satisfies the venue requirement of 28 U.S.C. § 1446(a).

11. Monsanto has not yet been served with the summons and Complaint. Accordingly, this Notice of Removal is timely under 28 U.S.C. § 1446(b)(1).

12. The written notice required by 28 U.S.C. § 1446(d) will be promptly filed in the Superior Court of Gwinnett County, Georgia and will be promptly served on Plaintiff.

13. Monsanto does not waive any defenses and expressly reserves its right to raise any and all defenses in subsequent proceedings, including but not limited to any and all defenses under Federal Rule of Civil Procedure 12.

14. If any question arises as to the propriety of this removal, Monsanto requests the opportunity to present written and oral argument in support of removal.

Conclusion

For the foregoing reasons, Monsanto removes this lawsuit to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 (and any other applicable laws).

Respectfully submitted,

June 20, 2023

SHOOK, HARDY & BACON L.L.P.

/s/ Caroline M. Gieser

Joshua L. Becker
GA Bar No. 046046
Caroline M. Gieser
GA Bar No. 167916
1230 Peachtree Street NE
Suite 1230
Atlanta, GA 30309
Telephone: (470) 867-6000
Facsimile: (470) 867-6001
jbecker@shb.com
cgieser@shb.com

*Attorneys for Defendant
MONSANTO COMPANY*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Notice of Removal* was filed electronically on June 20, 2023 and that service of the same on all counsel of record will be made by electronic mail, United States Mail, and the Court's CM/ECF system. Parties may access this filing through the Court's system.

Macklyn A. Smith, Sr.
P.O. Box 742
Lawrenceville, GA
macklynsmithattorney@yahoo.com
770-963-5716

/s/ Caroline M. Gieser

Attorney for Defendant
MONSANTO COMPANY